



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2004-OH-0004; FRL-9635-2]

**Approval and Promulgation of Air Quality Implementation Plans;
Ohio; New Source Review Rules-Notice of Action Denying Petition
for Reconsideration and Request for Administrative Stay**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; action denying petition for reconsideration and request for administrative stay.

SUMMARY: EPA is providing notice that it has responded to a petition for reconsideration and a request for an administrative stay of certain provisions of the final rule titled, "Approval and Promulgation of Air Quality Implementation Plans; Ohio; New Source Review Rules" published February 25, 2010. The Ohio EPA sought approval to implement the New Source Review (NSR) Reform provisions that were not vacated by the United States Court of Appeals for the District of Columbia (DC Circuit) in *New York v. EPA*. The final rule approved certain revisions to Ohio's NSR program, which Ohio submitted to EPA for review on September 14, 2004, under the Clean Air Act (CAA). Subsequently EPA received a petition dated April 26, 2010, for reconsideration from the Natural Resources Defense Council (NRDC). The petition also requested that EPA stay implementation of certain provisions of

the final rule pending its reconsideration. EPA considered the petition for reconsideration and request for an administrative stay, along with information contained in the rulemaking docket, in reaching a decision on both the petition and request for a stay. EPA Administrator, Lisa P. Jackson, denied both the petition for reconsideration and request for stay in a letter to the petitioner dated January 24, 2012. The letter explains the basis for the denial and is available as set forth below.

FOR FURTHER INFORMATION CONTACT: Andrea Morgan, Environmental Engineer, Air Permits Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-6058, morgan.andrea@epa.gov.

SUPPLEMENTARY INFORMATION:

I. How Can I Get Copies of This Document and Other Related Information?

This action, the petition for reconsideration, and the letter denying the petition for reconsideration and request for an administrative stay during the reconsideration are available in the docket that has been established for this action under Docket ID No. EPA-R05-OAR-2004-OH-0004. All documents in the docket are listed on the <http://www.regulations.gov> Web site. Publicly available docket materials are available in hard copy

at: Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604.

This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you contact Andrea Morgan, Environmental Engineer, at (312) 353-6058 before visiting the Region 5 office. In addition to being available in the docket, an electronic copy of each of these documents will be available on the World Wide Web. Following publication, a copy of this action will be posted on EPA's NSR Web site, under Regulations & Standards, at

<http://www.epa.gov/nsr>

II. Judicial Review

Under CAA section 307(b), judicial review of this final action is available only by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit on or before **[insert date 60 days from date that denial appears in the Federal Register]**.

Dated: February 13, 2012.

Susan Hedman,
Regional Administrator, Region 5.

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